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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,463	06/05/2001	Yasuji Hayashi	B-4206 618869-4	6267
7590	03/10/2004			EXAMINER CHAU, COREY P
Richard P. Berg, Esq. c/o LADAS & PARRY Suite 2100 5670 Wilshire Boulevard Los Angeles, CA 90036-5679			ART UNIT 2644	PAPER NUMBER
DATE MAILED: 03/10/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/875,463	HAYASHI ET AL.	
	Examiner	Art Unit	
	Corey P Chau	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 June 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 06/05/01 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because connection between web server 4 and database 5 and connection between database 5 and management server 6 is not shown in Fig. 2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the abstract exceeds 150 words. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: on paragraph 3, page 8, "Fig. 6" should be replaced with "Fig. 7".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6587127 to Leeke et al (hereafter as Leeke).

6. Leeke discloses methods and systems for distributing and playing content such as audio content, characterized in that user terminals 104,106 and a web server 102 are connected through an Internet 100 (Fig. 1; column 4, lines 13-19); a database 148 in which data of pieces of music that can be requested are stored is connected to the web server 102 (column 21, lines 31-34); a broadcasting system 141,142 (column 4, lines 50-66; column 8, lines 45-60) for transmitting sounds, images, pieces of music, texts and so on and a computer for a staff are connected to the database through a

Art Unit: 2644

management server 152, 154, 156, and 162 (Figs. 1 and 2); the web server 102 receives selections from among the pieces of music requested by the terminals (column 7, lines 55-62); the management server 154 computes classified totals (column 6, line 63 to column 7, lines 4; column 7, lines 17-30; column 47, lines 14-23); pieces of music selected with a click or automatically at the computer for a staff are broadcasted by the broadcasting system (column 7, lines 55-62).

7. Regarding Claim 2, Leeke discloses the system wherein requests are made using buttons for voting for requested pieces of music displayed on screens of the terminals (i.e. controls includes a hot spot region or a graphical button designated for receiving user-initiated selections and actions from the at least one input device) (Fig. 2; column 7, lines 55-62).

8. Regarding Claim 3, Leeke discloses the system wherein names, addresses, ages and messages are written and inputted at the time of the requests (the end user data includes a record comprising one or more of a name, an address, a login, an electronic mail address, preference, and demographics for each end user) (Fig. 30; column 6, lines 11-19).

9. Regarding Claim 4, Leeke disclose the system wherein the times of requests, information on requested pieces of music, messages and so on are transmitted by mail to the computer for the staff when the requests are received (column 5, lines 33-48; column 15, lines 3-17).

10. Regarding Claim 5, Leeke discloses the system wherein the classified totals of pieces of music are obtained for each genre and wherein pieces of music in each genre

Art Unit: 2644

specified by the computer for the staff are broadcasted (column 47, lines 24-37; column 46, lines 51-55).

11. Regarding Claim 6, Leeke discloses the system wherein the dates and times of the broadcasts and the like are transmitted to the requesters by mail when the pieces of music are broadcasted (i.e. one notification option is to send a message to the end user before the events occurs, wherein the message can include an electronic mail message sent to the client apparatus 106 or a paging message sent to a pager associated with the end user) (Fig. 14; column 16, line 56 to column 17, lines 3).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6587127 to Leeke.

14. Regarding Claim 7, Leeke discloses the system wherein the end user are allowed to print data pertaining to the music and the server 102 comprising a computer that generates report, but only generally; no specific hardware or software is taught. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the computer systems (102 and 106) would be provided such a printer (not shown in Leeke, but a well known device connected to a computer)

in order to print reports, data pertaining to the music or other reports related, for example, for server administrator statistics, etc .

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 26, 2004

*Corey P Chau*  
SPO/Art Unit 2644